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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,471	02/23/2005	Philippe Gentric	FR 020090	3281
24737 7590 05/14/2007 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			EXAMINER PATEL, ASHOKKUMAR B	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/525,471	Applicant(s) GENTRIC ET AL.	
	Examiner Ashok B. Patel	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/27/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-8 are subject to examination.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 2 6 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to claim 1,

Claim 1 recites "the client being intended to decode a subset of streams within a set of streams (S1, S10) having various predetermined bit rates", and then followed by "configuring the client so that the client can decode all the streams within the set of streams".

What type of "client configuration" would permit this type of contradicting functionality?

How "configuring the client so that the client can decode all the streams within the set of streams" would occur while the Client is "intended to decode a subset of streams within a set of streams"?

Claim goes on reciting "playing all the streams within the set of streams and muting all the streams within the set of streams, except the subset of streams."

Again, What type of "client configuration" would permit the contradicting functionality as to "playing all the streams within the set of streams and muting all the

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streams within the set of streams, except the subset of streams."? How can the client "play all" when only "the subset of streams" is "unmuted"?

Referring to claim 2,

Claim 2 is rejected for the reasons set forth for claim 1 because of its dependency on claim 1.

Referring to claim 6,

Claim 6 recites "the client intended to decode a subset of streams within a set of streams having various predetermined bit rates", and then followed by "configuring means (21) in order to be able to decode all the streams within the set of streams".

What type of "client configuration" would permit this type of contradicting functionality?

How "configuring means (21) in order to be able to decode all the streams within the set of streams" would work while the Client is "intended to decode a subset of streams within a set of streams"?

Referring to claim 8,

Claim 8 is claim to a computer program comprising a set of instructions which, when loaded into a processor or a computer, causes the processor or the computer to carry out the method as claimed in Claim 1. Therefore claim 8 is rejected for the reasons set forth for claim 1.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claim 8 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 8 recites " a computer program comprising a set of instructions which, when loaded into a processor or a computer, can be reasonably interpreted by one of ordinary skill in the art as software, per se, and therefore not tangibly embodied in a manner so as to be executable.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless-

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Vintage Global (hereinafter VintageGlobal) (GB 2 367 219 A).

Referring to claim 1,

VintageGlobal teaches a method of streaming multimedia data (Fig. 5, 6) and from a server (15) (Fig. 5, element "Source", page 8, para. 4, "A multimedia datastream is received from a source 20 such as a host or server.") to a client (14) (Fig. 3, element 34.1, "Target") over a network (13) (Abstract "The method is useful in sending multimedia data streams such as audio and video over a channel such as a cellular telephone network or the internet.") having a variable bandwidth (page 11, para. 2,

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"different data rate") , the client being intended to decode a subset of streams within a set of streams having various predetermined bit rates (S1, S10) (page 11, para. 4-page 12, line 2, "a balance between compression levels of different parts of the data - for example video data includes both sound and image. It is possible to increase a level of compression to the image and to decrease a level of compression to the sound or vice versa."), said subset of streams having bit rates compatible with the network bandwidth (page 11, para. 3, "Selection is carried out based on a channel capacity measurement 44, which is received from the client 36."), the method being further characterised in that it comprises the steps of configuring the client so that the client can decode all the streams within the set of streams, playing all the streams within the set of streams and muting all the streams within the set of streams, except the subset of streams (page 11, para. 4-page 12, line 2, "a balance between compression levels of different parts of the data - for example video data includes both sound and image. It is possible to increase a level of compression to the image and to decrease a level of compression to the sound or vice versa." **Note:** Playing, decoding and muting is inherent as the client can select the level of compression and provide feedback for channel capacity as shown in Fig. 4. Also note that claims are to be given their broadest reasonable interpretation during prosecution, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. See In re Morris, 127 F.3d 1048, 1054, 44 USPQ2D 1023, 1027 (Fed. Cir. 1997); In re Zletz, 893 F.2d 319, 321, 13 USPQ2D 1320, 1322 (Fed. Cir. 1989); In re Prater, 415 F.2d 1393, 1404, 162 USPQ 541,550 (CCPA 1969). In addition, the law of anticipation does not require that a reference "teach" what an appellant's

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disclosure teaches. Assuming that reference is properly "prior art," it is only necessary that the claims "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781,789 (Fed. Cir. 1983).

Referring to claim 2,

VintageGlobal teaches a method of streaming multimedia data according to claim 1, wherein the step of muting all the streams except the subset of streams is performed by the server on a request from the client in accordance with the MUTE/UNMUTE extension of the Real Time Streaming Protocol. (Fig. 5, element "Source", page 8, para. 4, "A multimedia datastream is received from a source 20 such as a host or server.", page 11, para. 3, "Selection is carried out based on a channel capacity measurement 44, which is received from the client 36.")

Referring to claim 3,

VintageGlobal teaches a server (15) (Fig. 5, element "Source", page 8, para. 4, "A multimedia datastream is received from a source 20 such as a host or server.") for serving a client (14) (Fig. 3, element 34.1, "Target") with a subset of streams over a network (13) (Abstract "The method is useful in sending multimedia data streams such as audio and video over a channel such as a cellular telephone network or the internet.") having a variable bandwidth (page 11, para. 2, "different data rate"), said server comprising means for selecting the subset of streams within a set of streams having various predetermined bit rates (page 11, para. 3, "Selection is carried out based on a channel capacity measurement 44, which is received from the client 36."), means

for playing (11) all the streams within the set of streams and means for muting (12) all the streams within the set of streams, except the subset of streams (page 11, para. 4- page 12, line 2, "a balance between compression levels of different parts of the data - for example video data includes both sound and image. It is possible to increase a level of compression to the image and to decrease a level of compression to the sound or vice versa." Note: Playing , decoding and muting is inherent as the client can select the level of compression and provide feedback for channel capacity as shown in Fig. 4. Also note that claims are to be given their broadest reasonable interpretation during prosecution, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. See In re Morris, 127 F.3d 1048, 1054, 44 USPQ2D 1023, 1027 (Fed. Cir. 1997); In re Zletz, 893 F.2d 319, 321, 13 USPQ2D 1320, 1322 (Fed. Cir. 1989); In re Prater, 415 F.2d 1393, 1404, 162 USPQ 541,550 (CCPA 1969). In addition, the law of anticipation does not require that a reference "teach" what an appellant's disclosure teaches. Assuming that reference is properly "prior art," it is only necessary that the claims "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781,789 (Fed. Cir. 1983).

Referring to claim 4,

VintageGlobal teaches a server as claimed in claim 3, wherein the means for selecting the subset of streams comprise means for measuring the network bandwidth (Fig. 2, element 26).

Referring to claim 5,

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VintageGlobal teaches a server as claimed in claim 3, wherein the means for selecting the subset of streams are controlled by a request from the client. (page 11, para. 3, "Selection is carried out based on a channel capacity measurement 44, which is received from the client 36.")

Referring to claim 6,

VintageGlobal teaches a client (14) intended to decode a subset of streams within a set of streams having various predetermined bit rates (page 11, para. 4-page 12, line 2, "a balance between compression levels of different parts of the data - for example video data includes both sound and image. It is possible to increase a level of compression to the image and to decrease a level of compression to the sound or vice versa.", page 11, para. 2, "different data rate") said streams being sent over a network (13) having a variable bandwidth (Abstract "The method is useful in sending multimedia data streams such as audio and video over a channel such as a cellular telephone network or the internet.") having a variable bandwidth (page 11, para. 2, "different data rate"),, said client comprising configuring means (21) in order to be able to decode all the streams within the set of streams, means for selecting a subset of streams having bit rates compatible with the network bandwidth and means for muting all the streams within the set of streams, except the subset of streams (page 11, para. 4-page 12, line 2, "a balance between compression levels of different parts of the data - for example video data includes both sound and image. It is possible to increase a level of compression to the image and to decrease a level of compression to the sound or vice versa." Note: Playing , decoding and muting is inherent as the client can select the level

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of compression and provide feedback for channel capacity as shown in Fig. 4. Also note that claims are to be given their broadest reasonable interpretation during prosecution, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. See In re Morris, 127 F.3d 1048, 1054, 44 USPQ2D 1023, 1027 (Fed. Cir. 1997); In re Zletz, 893 F.2d 319, 321, 13 USPQ2D 1320, 1322 (Fed. Cir. 1989); In re Prater, 415 F.2d 1393, 1404, 162 USPQ 541,550 (CCPA 1969). In addition, the law of anticipation does not require that a reference "teach" what an appellant's disclosure teaches. Assuming that reference is properly "prior art," it is only necessary that the claims "read on" something disclosed in the reference, i.e., all limitations of the claim are found in the reference, or "fully met" by it. Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781,789 (Fed. Cir. 1983).

Referring to claim 7,

VintageGlobal teaches a telecommunication system comprising a server (Fig. 5, element "Source", page 8, para. 4, "A multimedia datastream is received from a source 20 such as a host or server.") for serving a client with a subset of streams (Fig. 3, element 34.1, "Target"), said server comprising means for selecting the subset of streams within a set of streams having various predetermined bit rates (Fig. 2, element 26, page 11, para. 2, "different data rate"), means for playing all the streams within the set of streams and means for muting streams, a network having a variable bandwidth (Abstract "The method is useful in sending multimedia data streams such as audio and video over a channel such as a cellular telephone network or the internet.", (page 11, para. 3, "Selection is carried out based on a channel capacity measurement 44, which is

received from the client 36.") and a client intended to decode the subset of streams, said client comprising configuring means in order to be able to decode all the streams within the set of streams, means for selecting a subset of streams having bit rates compatible with the network bandwidth (Fig. 6, page 11, para. 4-page 12, line 2, "a balance between compression levels of different parts of the data - for example video data includes both sound and image. It is possible to increase a level of compression to the image and to decrease a level of compression to the sound or vice versa.", page 11, para. 2, "different data rate") and means for requesting that all the streams within the set of streams, except the subset of streams, are muted (page 11, para. 4-page 12, line 2, "a balance between compression levels of different parts of the data - for example video data includes both sound and image. It is possible to increase a level of compression to the image and to decrease a level of compression to the sound or vice versa." Note: Playing , decoding and muting is inherent as the client can select the level of compression and provide feedback for channel capacity as shown in Fig. 4. Also note that claims are to be given their broadest reasonable interpretation during prosecution, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. See In re Morris, 127 F.3d 1048, 1054, 44 USPQ2D 1023, 1027 (Fed. Cir. 1997); In re Zletz, 893 F.2d 319, 321, 13 USPQ2D 1320, 1322 (Fed. Cir. 1989); In re Prater, 415 F.2d 1393, 1404, 162 USPQ 541,550 (CCPA 1969). In addition, the law of anticipation does not require that a reference "teach" what an appellant's disclosure teaches. Assuming that reference is properly "prior art," it is only necessary that the claims "read on" something disclosed in the reference, i.e., all limitations of the claim

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are found in the reference, or "fully met" by it. Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 772, 218 USPQ 781,789 (Fed. Cir. 1983).

Referring to claim 8,

Claim 8 is a claim to a computer program comprising a set of instructions which, when loaded into a processor or a computer, causes the processor or the computer to carry out the method as claimed in Claim 1. Therefore claim 8 is rejected for the reasons set forth for claim 1.

Conclusion

Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok B. Patel whose telephone number is (571) 272-3972. The examiner can normally be reached on 6:30 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan A. Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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A handwritten signature in black ink, appearing to read 'Ashok B. Patel', with a stylized flourish at the end.

Ashok B. Patel
Examiner
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